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Robert B. Nichols and Ellen M. Nichols

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, 05 Cr. 1039 (CM)

Plaintiff,

- against -

SAMUEL ISRAEL III,

Defendant.

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ROBERT B. NICHOLS and
ELLEN M. NICHOLS,

Petitioners.

----- x

BAYOU MANAGEMENT LLC, 08 Civ. 6036 (CM)

Plaintiff,

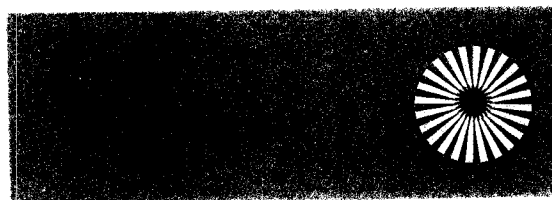
- against -

ROBERT B. NICHOLS, ELLEN M.
NICHOLS, SAMUEL ISRAEL III, and JOHN
DOES 1-5,

Defendants.

----- -x

DECLARATION OF ELLEN M. NICHOLS



ELLEN M. NICHOLS, pursuant to 28 U.S.C. § 1746, hereby declares:

1. I am a Petitioner-Defendant in these consolidated proceedings. I submit this declaration in opposition to the respective motions for sanctions under Federal Rules of Civil Procedure 37(b)(2)(A) of the United States of America (the "Government") and of Bayou Management, LLC ("Bayou") against me and my husband, Robert B. Nichols ("Bob").

2. For many years, I have been the "bookkeeper" for my family. In that capacity, I have kept balances on check registers of various bank accounts belonging to Bob and me. I have also maintained records of our finances, such as credit card statements, utility bills, and other receipts and statements.

3. I am undergoing treatment for a major blood clot in my left leg and have been recovering at my parents' residence in California for the past two months. I am on anticoagulation therapy and have been seeing my doctor on a weekly basis for treatment and monitoring. My doctor has advised me not to assume a steady position, including sitting upright for more than 30 minutes without moving or getting up. I have also been advised against making too much movement. As such, it has been difficult for me to engage in even routine daily activities. Attached hereto as Exhibit A is a true and correct copy of a letter from my physician dated November 19, 2008.

4. I have been trying my best to locate documents "tracking" the \$10 Million received from Samuel Israel III ("Israel") in July 2004. This task, however, has not been an easy one due to my medical condition as well as the fact that documents are located in multiple locations, including Arizona, Hawaii and London.

5. I have, however, located the following categories of documents and understand that they have been produced by my counsel to the Government and Bayou.

6. We have produced check registers for our account with Bank of America showing detailed debits and credits from December 2006 to present. Attached hereto as Exhibit B are true and correct copies of the check registers.

7. We have produced bank statements for our account with California Bank & Trust from July 2004 through January 2005. Attached hereto as Exhibit C are true and correct copies of the statements.

8. We have produced check registers for our account with California Bank & Trust showing detailed debits and credits from January 2005 to present. Attached hereto as Exhibit D are true and correct copies of the check registers.

9. We have produced check registers for our account with First Hawaiian Bank showing detailed debits and credits from November 2002 to present. Attached hereto as Exhibit E are true and correct copies of the check registers.

10. We have produced check registers for our account with Bank of Hawaii showing detailed debits and credits from June 2003 to present. Attached hereto as Exhibit F are true and correct copies of the check registers.

11. We have also requested bank statements from the above-referenced banks and will produce any documents provided by the respective banks upon receipt.

12. We have also produced statements from HSBC Bank plc ("HSBC"). Attached hereto as Exhibit G are true and correct copies of the statements.

13. While it is difficult to make sense of transactions shown on HSBC statements on their own, they can be cross-referenced to the check registers produced. For the Court's convenience, attached hereto as Exhibit H is a true and correct copy of a spreadsheet showing transfers of funds from our HSBC account to the other bank accounts.

14. For example, the HSBC statement shows a debit of \$35,000 on March 22, 2005 (NICHOLS 00487). This transaction can be matched to the California Bank & Trust check registers showing a wire transfer deposit of the same amount (NICHOLS 00808).

15. We also transferred a portion of the \$10 Million to a Citibank account Bob and I used to have. While I am not certain about the total amount of funds transferred, I do recall making several transfers from the HSBC account to the Citibank account. The transferred funds may have added up to approximately \$175,000. In or about summer of 2004, however, Citibank notified that it was closing our account. When I inquired as to why our account was being closed, the bank representatives stated that they did not have to provide a reason. My understanding is that Citibank's action was somehow related to its problems with Israel but I never understood why those problems affected our personal business with Citibank.

16. We have also produced American Express statements of accounts for Senior Member Gold Card and The Optima® Card, both of which are held by my father, Joseph A. Hopko, as the primary card holder. As shown on the statements, Bob and I are additional card holders of each of these cards. At my father's suggestion, Bob and I have been the primary users of both credit cards. The statements show that my father's transactions are limited to membership rewards annual program fees, which Bob and I having been paying on my father's behalf. We have also been paying American Express for all credit card transactions. Attached hereto as Exhibit I are true and correct copies of the statements of accounts.

17. We have also located documents concerning the improvements made to our property in Arizona. Those documents will be sent to our counsel for production within a day or so.

18. We gave authorization to the building security personnel to search and locate responsive documents in our flat in London. Attached hereto as Exhibit J is a true and correct copy of our letter of authorization. We have been informed that no such documents were located in our flat. We have requested a written confirmation, which will be produced upon receipt.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 23, 2008.


Ellen M. Nichols